

SB2821



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2821

Introduced 1/28/2010, by Sen. Dale E. Risinger

SYNOPSIS AS INTRODUCED:

750 ILCS 5/602.1

from Ch. 40, par. 602.1

Amends the Illinois Marriage and Dissolution of Marriage Act. Adds to existing requirements for a Joint Parenting Agreement that, in order to obtain court approval, the Agreement must, at a minimum, detail how the parents will share the daily tasks associated with the upbringing of the child; the time-sharing schedule arrangements that specify each parent's time with the child; who is responsible for health care, school-related matters, and other activities; and the methods and technologies that the parents will use to communicate with the child.

LRB096 19734 AJO 35153 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 602.1 as follows:

6 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

7 Sec. 602.1. (a) The dissolution of marriage, the
8 declaration of invalidity of marriage, the legal separation of
9 the parents, or the parents living separate and apart shall not
10 diminish parental powers, rights, and responsibilities except
11 as the court for good reason may determine under the standards
12 of Section 602.

13 (b) Upon the application of either or both parents, or upon
14 its own motion, the court shall consider an award of joint
15 custody. Joint custody means custody determined pursuant to a
16 Joint Parenting Agreement or a Joint Parenting Order. In such
17 cases, the court shall initially request the parents to produce
18 a Joint Parenting Agreement. Such Agreement shall specify each
19 parent's powers, rights and responsibilities for the personal
20 care of the child and for major decisions such as education,
21 health care, and religious training. An Agreement approved by
22 the court must, at a minimum, describe in adequate detail how
23 the parents will share and be responsible for the daily tasks

1 associated with the upbringing of the child; the time-sharing
2 schedule arrangements that specify the time that the minor
3 child will spend with each parent; a designation of who will be
4 responsible for any and all forms of health care,
5 school-related matters including the address to be used for
6 school-boundary determination and registration, and other
7 activities; and the methods and technologies that the parents
8 will use to communicate with the child. The Agreement shall
9 further specify a procedure by which proposed changes, disputes
10 and alleged breaches may be mediated or otherwise resolved and
11 shall provide for a periodic review of its terms by the
12 parents. In producing a Joint Parenting Agreement, the parents
13 shall be flexible in arriving at resolutions which further the
14 policy of this State as expressed in Sections 102 and 602. For
15 the purpose of assisting the court in making a determination
16 whether an award of joint custody is appropriate, the court may
17 order mediation and may direct that an investigation be
18 conducted pursuant to the provisions of Section 605. If there
19 is a danger to the health or safety of a partner, joint
20 mediation shall not be required by the court. In the event the
21 parents fail to produce a Joint Parenting Agreement, the court
22 may enter an appropriate Joint Parenting Order under the
23 standards of Section 602 which shall specify and contain the
24 same elements as a Joint Parenting Agreement, or it may award
25 sole custody under the standards of Sections 602, 607, and 608.

26 (c) The court may enter an order of joint custody if it

1 determines that joint custody would be in the best interests of
2 the child, taking into account the following:

3 (1) the ability of the parents to cooperate effectively
4 and consistently in matters that directly affect the joint
5 parenting of the child. "Ability of the parents to
6 cooperate" means the parents' capacity to substantially
7 comply with a Joint Parenting Order. The court shall not
8 consider the inability of the parents to cooperate
9 effectively and consistently in matters that do not
10 directly affect the joint parenting of the child;

11 (2) The residential circumstances of each parent; and

12 (3) all other factors which may be relevant to the best
13 interest of the child.

14 (d) Nothing within this section shall imply or presume that
15 joint custody shall necessarily mean equal parenting time. The
16 physical residence of the child in joint custodial situations
17 shall be determined by:

18 (1) express agreement of the parties; or

19 (2) order of the court under the standards of this
20 Section.

21 (e) Notwithstanding any other provision of law, access to
22 records and information pertaining to a child, including but
23 not limited to medical, dental, child care and school records,
24 shall not be denied to a parent for the reason that such parent
25 is not the child's custodial parent; however, no parent shall
26 have access to the school records of a child if the parent is

1 prohibited by an order of protection from inspecting or
2 obtaining such records pursuant to the Illinois Domestic
3 Violence Act of 1986, as now or hereafter amended or pursuant
4 to the Code of Criminal Procedure of 1963. No parent who is a
5 named respondent in an order of protection issued pursuant to
6 the Illinois Domestic Violence Act of 1986 or the Code of
7 Criminal Procedure of 1963 shall have access to the health care
8 records of a child who is a protected person under that order
9 of protection.

10 (Source: P.A. 95-912, eff. 1-1-09; 96-651, eff. 1-1-10.)